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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 EDWARD STEWART,

11 Petitioner,

No. CIV S-05-0458 DFL KJM P

12 vs.

13 M. SHEPHERD,

14 Respondent.

ORDER

15 _____/
16 Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of
17 habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma
18 pauperis.

19 Examination of the in forma pauperis application reveals that petitioner is unable
20 to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be
21 granted. See 28 U.S.C. § 1915(a).

22 Because petitioner may be entitled to relief if the claimed violation of
23 constitutional rights is proved, respondent will be directed to file a response to petitioner's
24 habeas petition.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Petitioner's application to proceed in forma pauperis is granted;

3 2. Respondent is directed to file a response to petitioner's habeas petition within
4 sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer
5 shall be accompanied by all transcripts and other documents relevant to the issues presented in
6 the petition. See Rule 5, Fed. R. Governing § 2254 Cases. In this case, those documents should
7 include the transcript of petitioner's 2002 hearing before the Board of Prison Terms and all
8 documents the commissioners relied on at that hearing, plus the transcripts and documents relied
9 upon by the governor as well as the governor's August 2002 decision to reverse the Board's
10 finding that petitioner was suitable for parole.

11 3. If the response to the habeas petition is an answer, petitioner's reply, if any,
12 shall be filed and served within thirty days after service of the answer;

13 4. If the response to petitioner's habeas petition is a motion, petitioner's
14 opposition or statement of non-opposition to the motion shall be filed and served within thirty
15 days of service after service of the motion, and respondents' reply, if any, shall be filed and
16 served within fifteen days thereafter; and

17 5. The Clerk of the Court shall serve a copy of this order together with a copy of
18 the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Jo Graves, Senior
19 Assistant Attorney General.

20 DATED: May 23, 2005.

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23 UNITED STATES MAGISTRATE JUDGE
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